

**Notice of Allowability**

Application No.

09/916,866

Examiner

Trenton J. Roche

Applicant(s)

DAVIS ET AL.

Art Unit

2193

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications filed 9 June 2006.
2. ☒ The allowed claim(s) is/are 1, 2, 4-12, 14-34 and 40 (renumbered as 1-33).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

1. This Office action is responsive to communications filed 9 June 2006.
2. Per Applicants' request, amended claims 1, 8, 14, 22, 28 and 29 been entered. Claims 35-39 have been cancelled. Claims 1, 2, 4-12, 14-34 and 40 are currently pending and have been examined.

#### ***Terminal Disclaimer***

3. The terminal disclaimer filed 9 June 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 6,282,712 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### ***Double Patenting***

4. In light of the terminal disclaimer filed 9 June 2006, the rejection of claims 1, 2, 4-12 and 14-40 under the judicially created doctrine of obviousness-type double patenting has been withdrawn.

#### ***Response to Arguments***

5. Applicant's arguments, see pages 13 and 14 of the remarks, filed 9 July 2006, with respect to the rejection under 35 U.S.C. § 102(e) have been fully considered and are persuasive. The rejection of the Office letter of 9 March 2006 has been withdrawn.

#### ***Allowable Subject Matter and Examiner's Statement of Reason(s) for Allowance***

6. Claims 1, 2, 4-12, 14-34 and 40 (renumbered as 1-33) are allowed.
7. The following is an Examiner's statement of reasons for allowance:

The closest found prior art of record, specifically, U.S. Patent 6,286,041 to Collins, III et al. (hereinafter "Collins"), taken alone or in combination, fails to teach or reasonably suggest a method or data processing system for installing software in accordance with independent claim 1.

Specifically, Collins does not teach *a first computer configured to receive the software...a second computer configured to automatically determine when the first computer is newly added to the data processing system by comparing a list of computers being managed by the second computer to a previously generated list of computers being managed by the second computer, the second computer being configured to automatically install the software onto the first computer in response to the second computer determining that the first computer is newly added to the data processing system...*(claim 1) Similar limitations are recited in independent claims 8, 14, 22, 28 and 29.

Instead, Collins discloses a system for distributing software to network computers. The target computing systems may be in an offline state, and when the offline target computer connects to the network, software can be downloaded and installed on the target computer system. However, Collins does not explicitly disclose the ability to recognize a first computer newly added to a data processing system by comparing a list of computers being managed by a second computer to a previously generated list of computers being managed by the second computer, and automatically installing the software onto the first computer in response to said determination step, as required by independent claims 1, 8, 14, 22, 28 and 29.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner  
Art Unit 2193

TJR

  
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